

UNITED STATES DISTRICT COURT

Northern District of California

San Francisco Division

MARC OLIN LEVY,

No. C 12-01298 LB

Plaintiff,

v.

ORDER TO SHOW CAUSE AND
VACATING CASE MANAGEMENT
CONFERENCE

MASS MUTUAL,

Defendant.

Pro se Plaintiff Marc Levy filed this suit against Mass Mutual on March 14, 2012. *See* ECF No. 1.¹ The same day, he filed a motion for leave to proceed *in forma pauperis*, ECF No. 2, which this court granted on July 9, 2012, ECF No. 6. The court's order directed the U.S. Marshal for the Northern District of California to serve the relevant documents upon Mass Mutual. *Id.* This was not possible, however, because Mr. Levy failed to provide the clerk of the court with the Defendant's address. On August 16, 2012, the clerk of court sent Levy a letter asking for the Defendant's address, and enclosed a self-addressed postage paid envelope for Levy's reply. *See* ECF No. 8. Levy has not replied.

Federal Rule of Civil Procedure 4(m) provides that if a defendant is not served within 120 days after the complaint is filed, the court must dismiss the action against that defendant without prejudice or order that service be made within a specified time. Upon a showing of good cause,

¹ Citations are to the Electronic Case File ("ECF") with pin cites to the electronically-generated page numbers at the top of the document.

1 however, the court may extend the time for service for an appropriate period. Fed. R. Civ. P. 4(m).
2 Here, the original 120 day period expired on July 12, 2012. Nonetheless, because the court granted
3 Plaintiff's motion to proceed *in forma pauperis* on July 9, 2012, the court extends the period for
4 service to 120 days from that date. That 120 day period for service will expire on November 6,
5 2012. The court has given Levy sufficient time and the means to provide the court with an address
6 for service but has not done so. Accordingly, Levy is **HEREBY ORDERED TO SHOW CAUSE**
7 why the court should not dismiss this action without prejudice. Levy shall file a response to this
8 order to show cause by November 20, 2012. If Levy fails to respond to this order by November 20,
9 2012, the court may dismiss this action without further notice. In light of this order, the Case
10 Management Conference currently scheduled for November 8, 2012 is VACATED and reset for
11 January 17, 2013.

12 **IT IS SO ORDERED.**

13 Dated: November 2, 2012



LAUREL BEELER
United States Magistrate Judge